

EXHIBIT D

November 5, 2024 Election Protest of Jefferson Griffin
N.C. Supreme Court Associate Justice, Seat 6

PROTESTOR

1. Provide your preferred contact information:

Name: Jefferson Griffin County of Residence: Carteret
Email: jefferson@jeffersongriffin.com Phone: contact counsel
Mailing Address: PO Box 99780 Raleigh, NC 27624

NOTE: You will be deemed to consent to service at all of the above addresses (including email), unless you attach an addendum indicating otherwise.

2. Are you represented by counsel? ☒ Yes ☐ No

NOTE: If you answered Yes, above, your counsel must complete and you must attach the Counsel Certification Addendum.

3. Mark all that describe you:

- ☒ Candidate for the office of Seat 6 of the Supreme Court of North Carolina
☐ Registered voter eligible to participate in the protested election contest
☐ Neither of the above*

**If you select this option, you are not eligible to file a protest.*

PROTEST SCOPE

4. List all election contests subject to your protest and calculate the margin of votes separating the apparent winner from the runner-up as of the date of filing. Your response does not waive your right to contest the validity of the current vote count. If your protest concerns all contests on the ballot, you must include the vote margin for each contest.

| Protested Contest(s) | Current Vote Margin (subtract runner-up totals from apparent winner's totals) |
|--|--|
| N.C. Supreme Court Associate Justice, Seat 6 | 625 |

5. This protest alleges (*select at least one*):

- ☐ A defect in the manner by which votes were counted or results tabulated sufficient to cast doubt on the apparent results of the election.
☒ A violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.

FACTUAL BASIS & LEGAL ARGUMENT

6. Provide all factual allegations in support of your protest. If any fact you allege is outside the scope of your personal knowledge, you may attach affidavits from those who have personal knowledge of that fact. All facts you allege in connection with this protest must be true and accurate to the best of your knowledge, and brought in the sincere belief that the facts alleged form a good faith basis to protest the conduct and results of the election.

It appears the county board of elections has counted ballots cast by overseas voters without requiring the voter's to provide a copy of their photo identification. EXHIBIT A is an email from Karen Brinson Bell, Executive Director of the State Board of Elections, in which she states: "When a military or overseas citizen voter submits their ballot, neither federal nor state law requires them to provide ID when returning their ballot."

Article 20 of Chapter 163 of the General Statutes requires absentee ballots to include a photocopy of the voter's photo identification or an affidavit establishing an exception to the photo-identification requirement. N.C. Gen. Stat. § 163-230.1(f1). Absentee ballots under Chapter 163 include traditional mail-in absentee ballots under Article 20 and military-overseas ballots under Article 21A. *See, e.g.,* N.C. Gen. Stat. § 163-132.5G(a1)(4). Moreover, N.C. Gen. Stat. § 163-239 states that the provisions of Article 21A (concerning overseas-military ballots) "shall not apply to or modify" the absentee ballot provisions unless "provided therein." N.C. Gen. Stat. § 163-239.

Upon information and belief, the county has accepted, processed, and counted absentee ballots by overseas voters who did not provide a copy of photo identification (or an exception form). A board director and/or board member for the county confirmed to NCGOP legal counsel that this was the practice of the board. These actions violate North Carolina law. Before filing this protest, we submitted a public records request to the county board of elections seeking the information necessary to identify such voters. At the time of the protest, the request remains pending. Once the information is provided, we will supplement the protest.

7. List all individuals, if any, you may call as witnesses to substantiate facts listed in Prompt 6. If there are multiple individuals, summarize the facts of which the individual has personal knowledge.

The Executive Director of the this County's Board of Elections

8. Cite any statute or case, administrative rule or decisions, and election policy or procedure that supports your claim set out under Prompt 5.

N.C. Gen. Stat. §§ 163-230.1(f1), -239, -132.5G; N.C. Const. art. I, §§ 10, 19

RELIEF

9. What effect do you believe the facts alleged in response to Prompt 6, if proven, will have on the electoral outcome in the protested contest(s)? Your response should account for the current vote margin calculated in response to Prompt 4.

- ☐ The electoral outcome of the protested contest(s) will change.
- ☐ The electoral outcome of the protested contest(s) will not change.
- ☒ I am uncertain whether the outcome of the contest(s) will change. **(Due to other pending protests, these votes may be determinative of the outcome.)**
- ☐ Other _____

10. What relief do you seek?

- ☒ Correct the vote count
- ☐ A new election
- ☐ Other: _____

ASSISTANCE

11. List all persons who assisted you in preparing the contents of this protest and indicate the nature of the assistance provided:

See Counsel Certification Addendum

Note: For protestors represented by an attorney, this protest is the initial filing in a proceeding as defined by N.C. State Bar Rules. *See* 27 N.C.A.C. 02 Rule 1.00(n).

12. Has any candidate, political party, organization, or person acting on behalf of the same requested that you bring this protest?

- ☐ Yes
- ☒ No

13. Have you received any financial or other benefit or promise of future financial or other benefit in exchange for filing this protest?

☐ Yes

☒ No

AFFECTED PARTIES & SERVICE

You must serve copies of all filings on every person with a direct stake in the outcome of this protest ("Affected Parties"). Affected Parties include every candidate seeking nomination or election in the protested contest(s) listed under Prompt 4, not only the apparent winner and runner-up. If a protest concerns the eligibility or ineligibility of particular voters, all such voters are Affected Parties and must be served. Address information for registered voters is available from the county board of elections or using the Voter Lookup at www.ncsbe.gov.

Materials may be served by personal delivery, transmittal through U.S. Mail or commercial carrier service to the Affected Party's mailing address of record on file with the county board of elections or the State Board, or by any other means affirmatively authorized by the Affected Party. If you know the Affected Party is represented by an attorney, service must be made on his or her counsel. Service must occur within one (1) business day of filing materials with the county board of elections. If service is by transmittal through the U.S. Mail or commercial carrier service, service will be complete when the properly addressed, postage-paid parcel is deposited into the care and custody of the U.S. Mail or commercial carrier service. It is your responsibility to ensure service is made on all Affected Parties.

14. List all Affected Parties, including their service address:

| <i>Affected Party</i> | <i>Service Address</i> |
|------------------------|--|
| Allison Riggs | 1001 Wade Ave, Suite 323, Raleigh, NC 27605 |
| Voters described above | This information will be available in requested list |
| | |
| | |

PROTESTOR CERTIFICATION

15. By signing this protest application, you affirm the following:

I, Jefferyson Griffin (full name), swear, under penalty of perjury, that the information provided in this protest filing is true and accurate to the best of my knowledge, and that I have read and understand the following:

(initial)

JG
JG
JG

I have reviewed the statutes and administrative rules governing election protests, including all deadlines.

My protest must originate with a filing at the county board of elections.

I must timely serve all Affected Parties.

I must prove by *substantial evidence* either the existence of a defect in the manner by which votes were counted or results tabulated or the occurrence of a violation of election law, irregularity, or misconduct, either of which were sufficient to cast doubt on the apparent results of the election.

It is a crime to interfere unlawfully with the conduct and certification of an election.

It is a crime to interfere unlawfully with the ability of a qualified individual to vote and to have that vote counted in the election.

JG
JG

The facts I allege in connection with this protest are true and accurate to the best of my knowledge, and I have a good faith basis to protest the conduct and results of the election.

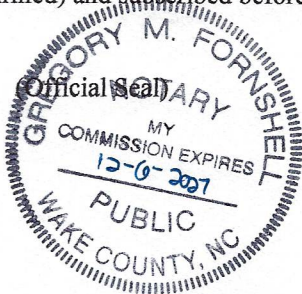
Submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General Statutes. This notice is provided pursuant to S.L. 2013-381, s. 5.4.

Signature of Protestor: _____
(This signature must be signed in the presence of a notary)

Date: 19 NOV 24

State of North Carolina, County of WAKE

Sworn to (or affirmed) and subscribed before me this 19th day of NOVEMBER, 2024.



Gregory M. Fornshell
Official Signature of Notary

GREGORY M. FORNSHELL, Notary Public
Printed Name

My commission expires: DECEMBER 6, 2027

.....
Date/Time Filed with County Board

(completed by the county board)

NOTE: The county board must provide the State Board with a complete copy of a filed protest within one business day after it is filed. In addition, the county board shall provide a copy of the election audit with this copy of the protest.

Please direct any questions to your county board of elections or the North Carolina State Board of Elections & Ethics Enforcement, PO Box 27255, Raleigh, NC 27611-7255.

COUNSEL OF RECORD ADDENDUM

If you answered Yes to Prompt 2 on the above, your attorney must complete this form and you must file it with your Election Protest Application.

Attorney Must complete all of the following:

Protestor Name: Jefferson Griffin
Attorney Name: Craig D. Schauer
Attorney Email: cschauer@dowlingfirm.com

Protestor County: Carteret (candidate challenge)
Attorney Phone: 919-529-3351


☒ I am a member in good standing with the North Carolina State Bar
☐ I am not licensed to practice law in North Carolina but am a member in good standing in _____ (State or District of Columbia), and do hereby apply to appear pro hac vice and certify that I have or will file all appropriate documents required under G.S. 84-4.1.

Law Firm: Dowling PLLC
Bar Number: 41571

I (choose one) ☐ am ☒ am not:

Subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below.

I represent the Protestor whose name is provided above. I have read and understand the laws governing election protests in North Carolina General Statutes Chapter 163 and Title 8 of the N.C. Administrative Code. I swear/attest that the information I have provided in this Addendum is true and accurate to the best of my knowledge.



Attorney Signature

11/19/2024

Date

EXHIBIT A

From: "Bell, Karen B" <Karen.Bell@ncsbe.gov>

Sent: Sunday, August 25, 2024 5:04pm

To: "lrevelle@reagan.com" <lrevelle@reagan.com>

Cc: "SBOE_Grp - Legal" <Legal@ncsbe.gov>, "Gannon, Patrick" <Patrick.Gannon@ncsbe.gov>

Subject: Your recent letter

Ms. Rebuck, (bcc: State Board Members and county election directors)

We write to express concern about a letter that you wrote that was forwarded to us by the elections director in another county, who received it from a state legislator asking her to respond. Your letter has been forwarded to a wide audience, and unfortunately, it contains false and misleading statements, and partisan remarks.

We are forwarding your letter and our response to the five members of the State Board of Elections and to all county directors so they can respond as necessary if they receive inquiries. This has required State Board staff to spend our limited resources drafting this letter and researching and providing the facts.

We are always available to county board members with questions or concerns about election administration, and we hope that in the future you will reach out to us should you need clarification to avoid the potential spread of false or misleading information, which undermines our common goals of administering elections according to the law and promoting confidence in our elections.

Please see our responses in red to your italicized statements below. We are happy to answer any questions you have about them.

"I am a member of the Henderson County Board of Elections and have served on the Board for over 6 years. I am frankly very discouraged about the upcoming election. I want to strongly state my belief that if you do not intervene immediately either legislatively or legally, we are going to lose NC to the Dems in November which will likely mean we lose the country. The responsibility will be yours, one way or the other."

Given the partisan statements in the above, we remind you of the requirements of [Article 4A of Chapter 163](#) of the North Carolina General Statutes. Whether or not the statements violate these provisions, it undermines the public's confidence in the fair administration of elections if their elections officials are widely communicating their desire for a particular outcome in an election they oversee.

"I am aware that Henderson County has recently received hundreds of new UNOCAVA (Overseas Civilian) applications." There is NO requirement to verify these people AND they do NOT have to provide ID when sending back their vote (by mail or email)."

UOCAVA, which stands for Uniformed and Overseas Citizens Absentee Voting Act, is a federal law prescribing specific procedures for military and overseas citizens to be allowed to vote in federal elections. Our state has adopted laws under Article 21A of Chapter 163 to carry out these procedures. When military and overseas citizens register to vote under these procedures, they typically provide either their Social Security Number or driver's license on the prescribed [federal form](#). When county officials input those values into the statewide database, the statewide database

automatically attempts to validate those numbers with the DMV and Social Security Administration. For civilian voters, if a number does not validate, state law requires the voter to provide an alternative form of ID before they vote for the first time. UOCAVA voters are expressly exempt from this requirement by state statute and have been for nearly 20 years. GS 163-166.12(f)(3).

When a military or overseas citizen voter submits their ballot, neither federal nor state law requires them to provide ID when returning their ballot.

“I believe this is a concerted effort to turn Henderson County blue. However, I believe that if you check with other counties, you will see that the numbers have grown substantially in every county. I have heard numbers as high as 300,000 statewide so far. I believe that there is a statewide effort under way to undermine the election.”

Again, we caution you about statements favoring or opposing particular outcomes in the elections you oversee.

We spoke with the Henderson County director, and she confirmed on August 23 that Henderson had received fewer than 150 UOCAVA requests. In 2020, according to State Board data, Henderson County received 347 requests for absentee ballots from military and Henderson County voters living abroad at the time. So, the number of requests is not necessarily high in 2024 as you suggest. Ballots go out in two weeks.

It is also possible that advocacy groups and others are encouraging military and overseas voters who are U.S. citizens to request their ballots. There is nothing wrong with that and, in fact, that is activity protected by the First Amendment of the U.S. Constitution.

Until ballot styles are finalized, we do not know how many UOCAVA requests have come in statewide. However, the State Board has no evidence of a “statewide effort underway to undermine the election.” If you have actual evidence of such, please provide it to the State Board or to the law enforcement agency of your choice. Otherwise, your statements are sensationalistic and inflammatory and will undermine voter confidence with no facts to back them up.

“Additionally, Henderson County has received numerous new voter applications that do not have HAVA required information to register (missing Driver's License and/or last 4 of SS or those numbers were not validated). The State BOE has instructed Counties to go ahead a register them without verification.”

This is false. The State Board, both in emails and in a statewide Huddle training session, have instructed county boards as follows:

- If a new voter does not provide their driver's license number or last four digits of their Social Security number and does not check the box to indicate that they do not have either of these numbers, then the voter will not be registered and will be sent an incomplete letter seeking the missing information.
- If an applicant provides a driver's license number or last four of their Social Security number but that number does not validate, then their registration should be processed but they must be sent a “request for identification letter.” If the voter subsequently provides the ID information, their

profile is updated. If they do not, they must provide an alternative ID proving their identity (so-called “HAVA ID”) before voting, or vote provisionally. See GS 163-166.12(c). See the [Request for Identification Information letter](#).

- If a new voter checks the box to indicate they do not have either identification number, then they will be sent a “request for identification” letter and be required to show a HAVA ID before they vote.

“There have been over 10,000 voters registered state-wide in the last 3 months with unverified or no Dr License or last 4 of SS numbers and therefore HAVE NOT BEEN VERIFIED. So even though the information provided does not match (validated) the application is automatically approved. This is just common sense-the identity of the voter should be verified before entering them on the voter rolls. This is an open invitation for missing or unvalidated applications to be approved and entered into the system.”

See the note above about the additional verification requirement for voters whose ID numbers fail to validate.

Here’s some additional important context. When a number does not match, SEIMS will not populate that field, so if we run a query in the database to see which registrations lack these identifiers, the query shows registrations where an identifier was provided but the number did not validate. To attempt to validate DLs or last-four SSNs, the SEIMS system sends a database query to DMV databases and the Social Security Administration databases, asking those databases to attempt to match specific information in records on both sides. It is not uncommon for a person’s ID to fail validation. There are a number of benign reasons this can occur, and occur regularly, which has been well [documented](#). The DMV/SSA requires exact field matching on name, DOB, DL/SSN so there is no current way to identify possible matches. Common reasons for validation failure are: misspelling of names, variation of names (Bob vs. Robert, maiden name vs. married name, varied designation of surnames for minority ethnicities, etc.), nickname or a missing suffix missing (Jr. or Sr.), inadvertent typos like missed numbers or transposed numbers in DL or last-four SSN, typos in birthdates, and situations where a registrant listed month/day/year in the wrong order on their registration form (there could be [national origin-based reasons](#) for this). Recognizing the faults in matching between distinct databases, the General Assembly enacted the provisions in GS 163-166.12(c) which allow a registrant whose DL or SSN did not match to provide HAVA ID either before or when first voting.

“Another concern is preventing non-citizens from voting. Putting the matter on the ballot in November is too little, too late. The legislature passed SB 747 requiring clerks of superior court to provide lists of people who have been excused from jury duty indicating that they are not US citizens. However, according to the SBOE this will not take place until after the November election.”

This is false. The superior court clerks are (and have) provided such lists, and State Board staff is reviewing those and contacting any registered voters who are identified and for whom a state and federal database check does not show they have obtained citizenship. After nearly every county clerk submitted any records of jurors excused for non-citizenship, there were 9 registrants total identified through these checks statewide. While it is true that federal law (NVRA) prevents us from outright removing these records this close to a federal election, we are nonetheless going to

encourage any of these identified registrants to cancel their registration if they indeed lack citizenship. After the federal election, we can resume this program and conduct removals similar to how we process felon removals, rather than the notices and invitation to cancel registration which is as much as we can do and still comply with federal law.

“You have allowed the SBOE to drag its feet (I believe on purpose) on all of these matters. This must be rectified if you want to win in November. I am not asking for anything that would be unfair to anyone, I just want the laws enforced to make it fair for everyone. Frankly, the county BOEs are nothing more than a rubber stamp and we have to sit there and vote to certify without any real ability to legally object. Again, the success or failure of this election in November is on you. I implore you to either fix this legislatively or in Court.

Best wishes in November, you will need it!”

Again, we remind you of the prohibitions in the law on political activity by county board members.

We again invite you to contact us in the future to clear up your misunderstandings about election processes and the law.

Regards,

Karen Brinson Bell, CERA, PMP

Executive Director, NCSBE

(919) 814-0700 Main Line

